



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

October 23, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James Dulcey, Owner
Vogel Sunnyside Farm, LLC
Vogel Farm Spring Water Company
174 Dulcey Road
Weatherly, PA 18255

RE: Notice of Violation and Information Request, Docket No. 03-2016-006-VS
Vogel Farm Spring Water Company, Carbon County, Pennsylvania
PWS ID No. PA 3136549

Dear Mr. Dulcey:

The following Notice of Violation and Information Request are issued pursuant to Section 1414(a) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300g-3(a), and are a coordinated effort with the Commonwealth of Pennsylvania. According to our records, and information we have received from the Pennsylvania Department of Environmental Protection (PA DEP), your public water system has violated certain provisions of the SDWA, 42 U.S.C. §§ 300f-300j-26, and the National Primary Drinking Water Regulations (NPDWR) found at 40 CFR Part 141. Pursuant to Section 1414(i)(4) of the SDWA, 42 U.S.C. §300g-3(i)(4), the implementing regulations for the Pennsylvania's Safe Drinking Water Program (PA Code Section 109) are applicable requirements of the SDWA.

Notice of Violation

Based on information we possess:

1. Vogel Sunnyside Farm, LLC ("Respondent") is a supplier of water and owner of the Vogel Farm Spring Water Company, public water system (PWS) identification number PA3136548 ("System").
2. Respondent is a "person" as defined by Section 1401(12) of the SDWA, 42 U.S.C. §300f(12), and 40 CFR § 141.2.

3. According to Pennsylvania Code § 109.1, a bulk water hauling system is defined as a public water system which provides water piped into a carrier vehicle and withdrawn by a similar means into the user's storage facility or vessel. The term includes, but is not limited to, the sources of water, treatment, storage or distribution facilities.
4. Vogel Farm Spring Water Company is a bulk water hauling system and must comply as a public water system with monitoring and other requirements of Pennsylvania Code § 109, including § 109.1003 and the NPDWR at 40 C.F.R Part 141.
5. The System provides water from ground water sources.
6. Respondent failed to collect asbestos water samples for monitoring in accordance with 40 C.F.R. §141.24 during the 2012, 2013, and 2014 annual monitoring periods.
7. Respondent failed to collect Endothall, Oxamyl and Carbofuran water samples for monitoring in accordance with 40 C.F.R. §141.24 during the 2012, 2013, and 2014 annual monitoring periods.
8. Respondent failed to collect a water sample of 1,2 Dibromo 3 chloropropane (Dibromochloropropane) for monitoring in accordance with 40 C.F.R. §141.24 during the 2014 annual monitoring period.
9. Respondent failed to collect ^{2nd} Pentachlorophenol and 2, 3, 7, 8-TCDD (Dioxin) water samples for monitoring in accordance with 40 C.F.R. §141.24 during the quarterly monitoring periods starting April – June 2014 through the present.
10. Respondent failed to provide public notification of its failure to monitor for the following list of contaminants and monitoring periods, a violation that requires public notice no later than one year after the system learns of the violation, and annually thereafter until the violation is resolved, as set forth in §141.204.
 - a. Dioxin monitoring during the 2nd quarter of 2013
 - b. Pentachlorophenol monitoring during the 2nd quarter 2013
 - c. Asbestos monitoring during the 2012, 2013, and 2014 annual monitoring periods
 - d. Endothall, Oxamyl, and Carbofuran monitoring during 2014
11. Respondent failed to notify the state of its failure to comply with the public notification requirements as set forth in 40 CFR §141.201.

Respondent is required to correct each of the above violations. EPA is available to provide advice and technical assistance to help address these issues.

This Notice of Violation is issued pursuant to Section 1414(a) of the SDWA, 42 U.S.C. § 300g-3(a). After thirty (30) days from the date of this notice, EPA is authorized either to issue an Administrative Order under Section 1414(g) requiring the public water system to comply, or to commence a civil action under Section 1414(b). Violations of the SDWA and the regulations are subject to penalties of up to \$37,500 per day of violation.

Request for Information

Section 1445(a) of the SDWA, 42 U.S.C. § 300j-4(a), authorizes EPA to require owners and operators of public water systems to provide information as may be necessary to carry out the purposes of the SDWA.

Respondent is required to provide EPA with the following information. This requirement to submit information is mandatory. Compliance with this requirement does not relieve Respondent of any liability for violations of the SDWA. Respondent may be subject to civil and criminal sanctions if it provides misleading or false information or fails to provide the requested information. Information which the Respondent provides may be used by EPA in administrative, civil or criminal proceedings.

You may, if desired, assert a business confidentiality claim covering all or part of the information requested herein in the manner described in 40 CFR Part 2. If no claim of confidentiality accompanies the information requested herein, it may be made available to the public by EPA without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (See 5 CFR § 1320.3(c)).

Accordingly, pursuant to Section 1445(a) of the SDWA, Respondent is directed to provide EPA with the following information about the System:

1. Name and street address of the owner or owners of the System. Do not provide a post office box. If a corporation, provide the names, titles, and addresses of officers. If a cooperative association, please list all property owners and addresses.
2. Name and street address of the operator or operators of the System (and state certification number, if applicable) if different than above. Do not provide a post office box. If a corporation, provide the names, titles, and addresses of officers.
3. Copies of results for Asbestos and all Synthetic Organic Compounds since 2012.

4. Copies of public notices for monitoring violations listed above.
5. A copy of any reports forwarded to the State concerning violations, monitoring activities and public notification.

Your response to this Notice of Violation and Request for Information shall be in writing. **Your response is due within thirty (30) days of receipt of this Notice of Violation and Request for Information.** The instructions for responding to the inquiries are as follows:

- a. A separate narrative response must be made for each question set forth above, and for any subpart of each question.
- b. Label each response with the corresponding number of the question and any subpart to which it responds.

You should submit your response to:

Ms. Lisa M. Donahue
U.S. Environmental Protection Agency
Ground Water and Enforcement Branch (3 WP32)
1650 Arch Street
Philadelphia, PA 19103-2029
Donahue.lisa@epa.gov

and


Mr. David Hissner
Pennsylvania Department of Environmental Protection
Safe Drinking Water Program
5 West Laurel Blvd.
Pottsville, PA 17901-2522
dahissner@state.pa.gov

EPA has determined that your System may be a "small business" under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The enclosed document entitled "Information for Small Businesses" provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, does not create any new rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative

enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

If you have any questions regarding any of the above, please contact Ms. Lisa M. Donahue, Ground Water and Enforcement Branch, at (215) 814-2062.

Sincerely,


Karen D. Johnson, Chief
Ground Water and Enforcement Branch

Enclosure

cc: Mr. David Hissner, PADEP
Mr. Todd Ostir, PADEP

